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**HOUSE BILL 2233**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Couture, Griffey, Connors, Klicker, Hutchins, Jacobsen, and Graham

AN ACT Relating to providing an appropriate response to the use and presence of controlled substances by parents to protect children; amending RCW 13.34.050, 26.44.050, 26.44.056, and 26.44.030; and reenacting and amending RCW 13.34.065.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 13.34.050 and 2021 c 211 s 6 are each amended to read as follows:

(1)(a) The court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if: ((~~(a)~~)) (i) A petition is filed with the juvenile court with sufficient corroborating evidence to establish that the child is dependent; ((~~(b)~~)) (ii) the allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect; and ((~~(c)~~)) (iii) an affidavit or declaration is filed by the department in support of the petition setting forth specific factual information evidencing insufficient time to serve a parent with a dependency petition and hold a hearing prior to removal.

(b) Use of a controlled substance or substances, as defined in chapter 69.50 RCW, not obtained directly from, or pursuant to, a valid prescription or order of a medical practitioner while caring for a child constitutes reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect under (a) of this subsection.

(2) Any petition that does not have the necessary affidavit or declaration demonstrating a risk of imminent harm requires that the parents are provided notice and an opportunity to be heard before the order may be entered.

(3) The petition and supporting documentation must be served on the parent, and if the child is in custody at the time the child is removed, on the entity with custody other than the parent. If the court orders that a child be taken into custody under subsection (1) of this section, the petition and supporting documentation must be served on the parent at the time of the child's removal unless, after diligent efforts, the parents cannot be located at the time of removal. If the parent is not served at the time of removal, the department shall make diligent efforts to personally serve the parent. Failure to effect service does not invalidate the petition if service was attempted and the parent could not be found.

**Sec.**  RCW 26.44.050 and 2021 c 211 s 5 are each amended to read as follows:

(1) Except as provided in RCW 26.44.030(12), upon the receipt of a report alleging that abuse or neglect has occurred, the law enforcement agency or the department must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

(2) A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

(3) Use of a controlled substance or substances, as defined in chapter 69.50 RCW, not obtained directly from, or pursuant to, a valid prescription or order of a medical practitioner while caring for a child constitutes reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect under subsection (2) of this section.

**Sec.**  RCW 26.44.056 and 2021 c 211 s 4 are each amended to read as follows:

(1)(a) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if there is probable cause to believe that detaining the child is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order under RCW 13.34.050: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(b) Use of a controlled substance or substances, as defined in chapter 69.50 RCW, not obtained directly from, or pursuant to, a valid prescription or order of a medical practitioner while caring for a child constitutes reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect under (a) of this subsection.

(2) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

**Sec.**  RCW 13.34.065 and 2021 c 211 s 9, 2021 c 208 s 1, and 2021 c 67 s 4 are each reenacted and amended to read as follows:

(1)(a) When a child is removed or when the petitioner is seeking the removal of a child from the child's parent, guardian, or legal custodian, the court shall hold a shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending. The court shall hold an additional shelter care hearing within 72 hours, excluding Saturdays, Sundays, and holidays if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section.

(b) Any child's attorney, parent, guardian, or legal custodian who for good cause is unable to attend or adequately prepare for the shelter care hearing may request that the initial shelter care hearing be continued or that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the child's attorney, parent, guardian, or legal custodian, the court shall schedule the hearing within 72 hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means. If the parent, guardian, or legal custodian is not represented by counsel, the clerk shall provide information to the parent, guardian, or legal custodian regarding how to obtain counsel.

(2)(a) If it is likely that the child will remain in shelter care longer than 72 hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the 72 hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court, in person, or by remote means, and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make diligent efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that experiencing homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B)(I) Removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, notwithstanding an order entered pursuant to RCW 26.44.063. The evidence must show a causal relationship between the particular conditions in the home and imminent physical harm to the child. The existence of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior does not by itself constitute imminent physical harm, except that use of a controlled substance or substances, as defined in chapter 69.50 RCW, not obtained directly from, or pursuant to, a valid prescription or order of a medical practitioner while caring for a child is a condition that places the child in imminent physical harm;

(II) It is contrary to the welfare of the child to be returned home; and

(III) After considering the particular circumstances of the child, any imminent physical harm to the child outweighs the harm the child will experience as a result of removal; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court finds that the elements of (a)(ii)(B) of this subsection require removal of the child, the court shall further consider:

(i) Whether participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal and, if so, shall inquire of the parent whether they are willing to participate in such services. If the parent agrees to participate in the prevention services identified by the court that would prevent or eliminate the need for removal, the court shall place the child with the parent. The court shall not order a parent to participate in prevention services over the objection of the parent, however, parents shall have the opportunity to consult with counsel prior to deciding whether to agree to proposed prevention services as a condition of having the child return to or remain in the care of the parent; and

(ii) Whether the issuance of a temporary order of protection directing the removal of a person or persons from the child's residence would prevent the need for removal of the child.

(c)(i) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless the petitioner establishes that there is reasonable cause to believe that:

(A) Placement in licensed foster care is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect, because no relative or other suitable person is capable of ensuring the basic safety of the child; or

(B) The efforts to reunite the parent and child will be hindered.

(ii) In making the determination in (c)(i) of this subsection, the court shall:

(A) Inquire of the petitioner and any other person present at the hearing for the child whether there are any relatives or other suitable persons who are willing to care for the child. This inquiry must include whether any relative or other suitable person:

(I) Has expressed an interest in becoming a caregiver for the child;

(II) Is able to meet any special needs of the child;

(III) Is willing to facilitate the child's sibling and parent visitation if such visitation is ordered by the court; and

(IV) Supports reunification of the parent and child once reunification can safely occur; and

(B) Give great weight to the stated preference of the parent, guardian, or legal custodian, and the child.

(iii) If a relative or other suitable person expressed an interest in caring for the child, can meet the child's special needs, can support parent-child reunification, and will facilitate court-ordered sibling or parent visitation, the following must not prevent the child's placement with such relative or other suitable person:

(A) An incomplete department or fingerprint-based background check, if such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, but the background checks must be completed as soon as possible after placement;

(B) Uncertainty on the part of the relative or other suitable person regarding potential adoption of the child;

(C) Disbelief on the part of the relative or other suitable person that the parent, guardian, or legal custodian presents a danger to the child, provided the caregiver will protect the safety of the child and comply with court orders regarding contact with a parent, guardian, or legal custodian; or

(D) The conditions of the relative or other suitable person's home are not sufficient to satisfy the requirements of a licensed foster home. The court may order the department to provide financial or other support to the relative or other suitable person necessary to ensure safe conditions in the home.

(d) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1).

(e) If the court does not order placement with a relative or other suitable person, the court shall place the child in licensed foster care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(f) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(g) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within 60 days of placement, hold a hearing to:

(i) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(h) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (c) of this subsection.

(i) If the court places with a relative or other suitable person, and that person has indicated a desire to become a licensed foster parent, the court shall order the department to commence an assessment of the home of such relative or other suitable person within 10 days and thereafter issue an initial license as provided under RCW 74.15.120 for such relative or other suitable person, if qualified, as a foster parent. The relative or other suitable person shall receive a foster care maintenance payment, starting on the date the department approves the initial license. If such home is found to be unqualified for licensure, the department shall report such fact to the court within one week of that determination. The department shall report on the status of the licensure process during the entry of any dispositional orders in the case.

(j) If the court places the child in licensed foster care:

(i) The petitioner shall report to the court, at the shelter care hearing, the location of the licensed foster placement the petitioner has identified for the child and the court shall inquire as to whether:

(A) The identified placement is the least restrictive placement necessary to meet the needs of the child;

(B) The child will be able to remain in the same school and whether any orders of the court are necessary to ensure educational stability for the child;

(C) The child will be placed with a sibling or siblings, and whether court-ordered sibling contact would promote the well-being of the child;

(D) The licensed foster placement is able to meet the special needs of the child;

(E) The location of the proposed foster placement will impede visitation with the child's parent or parents;

(ii) The court may order the department to:

(A) Place the child in a less restrictive placement;

(B) Place the child in a location in closer proximity to the child's parent, home, or school;

(C) Place the child with the child's sibling or siblings;

(D) Take any other necessary steps to ensure the child's health, safety, and well-being;

(iii) The court shall advise the petitioner that:

(A) Failure to comply with court orders while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110; and

(B) Placement moves while a child is in shelter care will be considered when determining whether reasonable efforts have been made by the department during a hearing under RCW 13.34.110.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than 30 days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a)(i) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(ii) If the court previously ordered that visitation between a parent and child be supervised or monitored, there shall be a presumption that such supervision or monitoring will no longer be necessary following a continued shelter care order under (a)(i) of this subsection. To overcome this presumption, a party must provide a report to the court including evidence establishing that removing visit supervision or monitoring would create a risk to the child's safety, and the court shall make a determination as to whether visit supervision or monitoring must continue.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8) The department and its employees shall not be held liable in any civil action for complying with an order issued under this section for placement: With a parent who has agreed to accept services, a relative, or a suitable person.

(9)(a) If a child is placed out of the home of a parent, guardian, or legal custodian following a shelter care hearing, the court shall order the petitioner to provide regular visitation with the parent, guardian, or legal custodian, and siblings. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and allowing family reunification. The court shall order a visitation plan individualized to the needs of the family with a goal of providing the maximum parent, child, and sibling contact possible.

(b) Visitation under this subsection shall not be limited as a sanction for a parent's failure to comply with recommended services during shelter care.

(c) Visitation under this subsection may only be limited where necessary to ensure the health, safety, or welfare of the child.

(d) The first visit must take place within 72 hours of the child being delivered into the custody of the department, unless the court finds that extraordinary circumstances require delay.

(e) If the first visit under (d) of this subsection occurs in an in-person format, this first visit must be supervised unless the department determines that visit supervision is not necessary.

**Sec.**  RCW 26.44.030 and 2019 c 172 s 6 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of children, youth, and families, licensed or certified child care providers or their employees, employee of the department of social and health services, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ((~~ombuds's~~)) ombuds' office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report that a child is a candidate for foster care as defined in RCW 26.44.020, the department may provide prevention and family services and programs to the child's parents, guardian, or caregiver. The department may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs, for a child determined to be a candidate for foster care.

(11) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(12)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Indicates a child's health, safety, and welfare will be seriously endangered if not taken into custody for reasons including, but not limited to, sexual abuse and sexual exploitation of the child as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW.

(c) In addition, the department may use a family assessment response to assess for and provide prevention and family services and programs, as defined in RCW 26.44.020, for the following children and their families, consistent with requirements under the federal family first prevention services act and this section:

(i) A child who is a candidate for foster care, as defined in RCW 26.44.020; and

(ii) A child who is in foster care and who is pregnant, parenting, or both.

(d) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(14) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report except as follows:

(i) Upon parental agreement, the family assessment response period may be extended up to one hundred twenty days. The department's extension of the family assessment response period must be operated within the department's appropriations;

(ii) For cases in which the department elects to use a family assessment response as authorized under subsection (12)(c) of this section, and upon agreement of the child's parent, legal guardian, legal custodian, or relative placement, the family assessment response period may be extended up to one year. The department's extension of the family assessment response must be operated within the department's appropriations.

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

(15)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(16) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

(17) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(18)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(19)(a) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(b) The department shall develop and make available to department staff a fentanyl-specific risk assessment tool to be used by department staff to determine the appropriate safety measures to take when investigating alleged child abuse and neglect referrals when fentanyl use or the presence of fentanyl is suspected or confirmed. The department shall also make available to department staff fentanyl testing strips that can detect the presence of fentanyl that may be used when investigating alleged child abuse and neglect referrals and otherwise as appropriate.

(20) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(21) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(22) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

(23) The department shall make available on its public website a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:

(a) Who is required to report child abuse and neglect;

(b) The standard of knowledge to justify a report;

(c) The definition of reportable crimes;

(d) Where to report suspected child abuse and neglect; and

(e) What should be included in a report and the appropriate timing.

**--- END ---**